

## **REMARKS**

The Examiner is thanked for the performance of a thorough search. By this amendment, Claims 1–85 have been canceled. Claims 86–171 have been added. Hence, Claims 86–171 are pending in this application.

All issues raised in the Office Action are addressed hereinafter.

### **I. CANCELED CLAIMS**

Claims 1–85 have been canceled to allow Applicants to write new claims. The cancellations were not necessarily made for any reason related to the patentability of those claims.

### **II. CLAIM REJECTIONS BASED ON 35 U.S.C. § 103**

Claims 1–85 were rejected under 35 U.S.C. § 103 as allegedly unpatentable over various combinations of references. Applicants traverse the rejection. However, in light of the cancellation of Claim 1–85, the rejection is now moot. Removal of the rejection is respectfully requested.

### **III. NEW CLAIMS**

The added claims do not add any new matter to this application, as they are supported by the original Specification. The new claims are patentable over the references cited against Applicant's previous claims for at least the reasons described below:

#### **INDEPENDENT CLAIM 86**

Claim 86 recites, among other elements, a number of elements similar to those found in now canceled Claim 1. These similar elements of Claim 1 were rejected as obvious in light of the combination of U.S. Patent No. 6,792, 459 B2 to Elnozahy, et al. (hereinafter "*Elnozahy*") and U.S. Patent No. 6,266,681 B1 to Guthrie, et al. (hereinafter "*Guthrie*").

Claim 86 is patentable over the cited references for at least the reason that there would have been no motivation to combine the two references. The Office Action alleges that such a motivation would have been to “provide periodic updates to the code.” Applicants disagree. Not only does the Office Action fail to make clear what “code” in *Elnozahy Guthrie*’s interceptor code would provide updates for, the Office Action fails to explain how *Guthrie*’s interceptor code could provide periodic updates for *Elnozahy*’s code. In fact, according to Applicants’ understanding of *Elnozay* and *Guthrie*, *Guthrie*’s interceptor code would be useless in “providing updates” to any code in *Elnozahy*.

The Office Action further alleges that such a motivation would have been to “enable a user or client to supplement the user’s browser with the additional functionality of the injectable component (i.e. injected code), without modifying the browser, by intercepting HTTP messages and placing code in HTML documents that causes the additional behavior to appear.” Again, Applicants disagree. One would not have combined *Elnozahy* and *Guthrie* because *Guthrie* teaches to cause “additional behavior to **appear**”—in other words, *Guthrie* teaches to add **visible components** to a web page. *Elnozahy*, on the other hand, teaches to “mitigate the undesirable effect” of additional components appearing to a user. In other words, *Elnozahy* teaches to hide the mechanisms that facilitate *Elnozahy*’s tracking mechanisms (e.g. hidden frames, nearly invisible windows). See *Elnozahy* at col. 8, lines 28–39.

For at least the foregoing reasons, there would have been no motivation to combine *Elnozahy* and *Guthrie*. Nor do any other cited references teach the elements of Claim 86. Therefore, the Claim 86 is patentable over the cited references.

### DEPENDENT CLAIM 87

Even if it would have been obvious to combine *Elnozahy* and *Guthrie*, the cited references do not disclose at least one element of dependent claim 87. Claim 87 recites the method of claim 86 in addition to, among other elements, “measuring a number of events, the events including at least a plurality of cursor events, focus events, or change events.” For instance, a computer may implement the method of Claim 87 to measure the number of mouse movements between the time a page is loaded and the time a next page is loaded. This

information may be useful for many reasons, including providing an application developer with feedback regarding the complexity of the page.

None of the cited references teach or suggest the use of “cursor events, focus events, or change events” to measure performance. Therefore, Claim 87 is patentable over the cited references.

#### **DEPENDENT CLAIM 88**

Furthermore, the cited references do not disclose at least one element of dependent claim 88. Claim 88 recites the method of Claim 86 along with, among other elements:

determining that a measured performance is below a threshold of minimum performance;  
in response to determining that the measured performance is below a threshold of  
minimum performance, sending a request to either the server device or  
intercepting device for a revised item;  
receiving the revised item.

Claim 88 thereby allows a computer to detect poor performance using client-side measurements, and, in response to that detection, send the client a smaller or simpler item that may be rendered by the client with better performance.

None of the cited references teach or suggest such a method. Therefore, Claim 88 is patentable over the cited references.

#### **DEPENDENT CLAIM 92**

Furthermore, the cited references do not disclose at least one element of dependent claim 92. Claim 92 recites the method of Claim 86 wherein the code inserted into the web page causes performance of “requesting an image file from one of the intercepting device or the server device.” Furthermore, as a consequence of this request, Claim 92 recites “sending [a] cookie” in which is recorded “data indicating the measurement.”

Conventionally, if a client were to report measurement data using a cookie, the client would have to request a new page. The method of claim 92 allows the client to send a

measurement using a cookie, without having to request a new page. None of the cited references describe such a technique.

For example, although *Elnozahy* describes the use of cookies for reporting, *Elnozahy* does not describe sending a cookie through any method other than the conventional method of waiting for a request for a new page. Nor does *Elnozahy* describe sending a cookie for reporting purposes “as a consequence” of a request for an image file that is caused by code inserted into the web page.

Furthermore, **Claim 94** recites this method with the additional step of requesting the image file “in response to detecting that the item is completely loaded in a client process at the client device.” By contrast, none of the references features a mechanism for reporting performance measurements in response to the page being completely loaded. For example, *Elnozahy* teaches to report data only in response to an unload event. *See Elnozahy* at col. 7, lines 31–62.

In fact, none of the cited references teach or suggest either of the methods of Claims 92 and 94. Therefore, Claims 92 and 94 are patentable over the cited references.

#### **DEPENDENT CLAIM 95**

Also, the cited references do not disclose at least one element of dependent claim 95. Claim 95 recites the method of Claim 86, along with, among other elements “correlating the measured performance at the client device with one or more metrics of server side performance.” None of the cited references teach or suggest such a method. Therefore, Claim 95 is patentable over the cited references.

#### **DEPENDENT CLAIM 98**

Also, the cited references do not disclose at least one element of dependent claim 98. Claim 98 recites the method of Claim 86, along with, prior to intercepting the item, intercepting an initial item that is the same as the item. The initial item is modified to include modified initial code that causes:

determining that the client device does not store data indicating a request time for the initial item, the request time being a time at which the initial item was requested;

in response to determining that the client device does not store data indicating a request time for the initial item, constructing a page to be loaded at the client device in place of the modified initial item, said page being different than the modified initial item, wherein the page includes code that causes the one or more processors on the client device to perform the steps of: automatically requesting the item from one of the server device or the intercepting device;

recording data indicating a time at which the item was requested.

This method facilitates measuring performance the first time a page from a website is loaded. The cited references feature no similar technique. For example, *Elnozahy* requires that there be an “instrumented link” in the first page, so that performance for the second page may be measured. *See Elnozahy* at col. 7, lines 1–30. *Elnozahy* does not teach any method for measuring the performance of the **first page**.

For at least the above reasons, none of the cited references teach or suggest such a method. Therefore, Claim 98 is patentable over the cited references.

### **INDEPENDENT CLAIM 120**

Independent Claim 120 recites features similar to those discussed with relation to Claim 88. Thus, Claim 120 is patentable over the cited references for at least the same reasons as discussed in relation to Claim 88.

### **THE REMAINING DEPENDENT CLAIMS**

Each of the remaining dependent claims 87–119 and 121–171 that are not discussed above is patentable for at least the same reasons as independent Claims 86 and 120. Additionally, each of the dependent claims recites at least one additional feature that independently renders it patentable over the cited references. However, to expedite prosecution in light of the fundamental differences already identified, further arguments for each

independently patentable feature of Claims 87–119 and 121–178 are not provided at this time. Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

#### IV. CONCLUSION

For the reasons set forth above, all of the pending claims are now in condition for allowance. The Examiner is respectfully requested to contact the undersigned by telephone relating to any issue that would advance examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,  
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Date: July 23, 2008

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